

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

vs.

**ROBIN LEE HERNANDEZ,
Defendant.**

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CRIMINAL ACTION 12-00164-KD-C

ORDER

This matter came before the Court on this date for a competency hearing pursuant to 18 U.S.C. § 4241 regarding Defendant Robin Lee Hernandez.

On July 30, 2012, after a hearing was held on same, the Court granted the Government's motion for psychiatric examination and Defendant Hernandez was hospitalized for an initial mental competency evaluation under 18 U.S.C. §§ 4241(a) and 4242(a). (Doc. 17). In so doing, the Court found:

reasonable cause to believe the Defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Additionally, there is evidence that he defendant may have been suffering from a serious mental disease or defect at the time of the commission of the offense.

(Id. at 4). After receiving psychological reports in January and February 2013 (Docs. 22 and 28), the Court scheduled a competency hearing for February 2013, at which time the Court ordered Defendant Hernandez hospitalized for further treatment pursuant to Section 4241(d)(1), to determine "whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward," after finding by a preponderance of the evidence that he is "presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences

of the proceedings against him or to assist properly in his defense.” (Doc. 29). On September 27, 2013, the Court received Defendant’s psychiatric report. (Doc. 45). Defendant was returned to the district on October 18, 2013 and a competency hearing was scheduled. (Doc. 47).

On October 22, 2013, the undersigned held a hearing to determine Defendant Hernandez’s mental competency. Present at this hearing were Defendant Hernandez, his counsel John W. Beck, and Assistant United States Attorney Michele C. O’Brien. The recent forensic evaluation of Defendant prepared by Sarah Ralston, M.D. (Staff Psychiatrist) and Maureen L. Reardon, Ph.D. (Staff Psychologist) at the BOP, concluded that Defendant Hernandez is now competent to stand trial, and that he is not suffering from a mental disease or defect to the extent he is unable to understand the nature and consequences of the proceedings filed against him or assist properly in his own defense. All the parties agree with this conclusion.

A defendant shall be considered competent to stand trial if found to have “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding” and “a rational as well as factual understanding of the proceedings against him.” Dusky v. United States, 362 U.S. 402, 402 (1960); Adams v. Wainwright, 764 F.2d 1356, 1359-60 (11th Cir. 1985). See also Godinez v. Moran, 509 U.S. 389, 401 n.12 (1993) (noting that “the question is whether [the defendant] has the ability to understand the proceedings[]”). Upon consideration of all matters presented, including the agreement of the parties and the opinions of the medical examiner contained in the Forensic Psychiatric Evaluation Report, the Court finds by a preponderance of the evidence that Defendant Hernandez does not suffer from a severe mental disease or defect and that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Therefore, the Court finds that Defendant Hernandez is **COMPETENT** to stand trial. It is so **ORDERED**.

Accordingly, it is **ORDERED** that this action is scheduled for **ARRAIGNMENT** on **Wednesday, October 23, 2013 at 2:00 p.m.**, before United States Magistrate Judge William E. Cassady, at the United States District Court, 113 St. Joseph St., Mobile, Alabama, 36602. The United States Marshal is **DIRECTED** to produce Defendant Hernandez for this October 23, 2013 hearing.

DONE and ORDERED this the **22nd** day of **October 2013**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE